

AGREEMENT

**between the Government of the United States of America
and the Government of the Republic of Tajikistan
on construction of a bridge between the Republic of Tajikistan and the
Islamic State of Afghanistan**

The Government of the United States of America and the Government of the Republic of Tajikistan (the Parties):

Recognizing the importance of increasing trade and economic integration in the region; and

Wishing to facilitate construction of a bridge between the Republic of Tajikistan and the Islamic State of Afghanistan;

Have agreed as follows:

**Article 1
Description**

This agreement provides the framework defining the roles, responsibilities, and commitments of the Governments of the United States of America (USG) and the Republic of Tajikistan (GOTI), for the purpose of planning, designing, and constructing a vehicle bridge spanning the Amu Darya/Pyandzh River in the vicinity of Pyanji Poyon, Tajikistan and Shir Khan Bandar, Afghanistan. The USG shall construct the bridge and related infrastructure with the cooperation of the Governments of Tajikistan and Afghanistan. The USG may carry out the work described in this Agreement directly or through contractors. All undertakings of the USG under this Agreement are subject to the availability of appropriated funds.

**Article 2
Other agreements**

a. The construction of the bridge, and all goods, equipment, services, and activities provided or utilized in connection with the planning and execution of the project, shall constitute assistance to Tajikistan under the "Agreement Between the Government of the United States of America and the Government of Tajikistan Regarding Cooperation to Facilitate the Provision of Assistance" dated 13 September 1993 ("the 1993 Agreement"). The terms of the present Agreement are in addition to the terms of the 1993 Agreement. In case of inconsistency, the terms of the present Agreement shall prevail.

b. The exchange of notes between the Embassy of the United States of America in Dushanbe and the Ministry of Foreign Affairs of the Republic of Tajikistan, dated 20 November 2001 and 23 November 2001, shall apply as appropriate to activities in connection with this Agreement unless otherwise noted herein.

c. All undertakings of the USG under this Agreement are contingent upon the conclusion and entry into force of a corresponding agreement between the USG and the Government of Afghanistan, and an agreement between the Governments of Tajikistan and Afghanistan covering the construction and operation of the bridge.

d. The Parties recognize that further arrangements or agreements may be necessary or desirable for the implementation of this Agreement. Any such arrangements or agreements shall be in writing. In the case of any inconsistency between this Agreement and any such further arrangements or agreements, the terms of this Agreement shall prevail, unless the Parties agree expressly to the contrary.

Article 3

Scope of project

The USG intends to provide a bridge, and related causeways, and other required infrastructure necessary to provide a safe, efficient, and reliable transportation link for people, vehicles, goods, and equipment. The USG will consult with the Governments of Afghanistan and Tajikistan to develop the scope of the project and the criteria (including but not limited to capacity, loads, and number of lanes) for the design and construction of the bridge and related infrastructure. The USG reserves the right to limit the scope of the project, or make changes in criteria, based on funding availability or other considerations. Other infrastructure improvements or roadway upgrades that may be required to achieve the maximum benefit from the bridge outside of the scope of United States assistance under this Agreement shall be the responsibility of the Governments of Tajikistan and Afghanistan.

Article 4

Site selection

a. Previous planning and assessments of a bridge crossing of the Amu Darya/Pyandzh River have identified a site in the vicinity of barge operations at Nizhniy Pyandzh. The USG shall investigate this potential bridge site in

consultation with the Governments of Afghanistan and Tajikistan and develop a preliminary technical assessment and cost estimates for construction of the bridge at this site. The GOT will provide the USG with any existing information on potential hazards at the site, including, but not limited to, unexploded ordnance and other environmentally hazardous conditions. Based on the results of these investigations, the USG will recommend the specific location for the bridge and identify the real property and other requirements for construction of the bridge on the proposed site. In the event that construction at the identified site is determined to be unfeasible, the USG reserves the right to limit investigation of alternative sites based on funding availability or other considerations.

b. The USG will provide the site analysis and recommendation to the Governments of Afghanistan and Tajikistan, in writing. Following receipt of the site analysis and recommendation, the Governments of Afghanistan and Tajikistan shall each provide written concurrence with the site analysis and recommendations, or a written response stating any concerns or objections. The USG will offer support to facilitate agreement on selecting a practical and cost effective location for the bridge at the currently identified site, or, as the USG deems appropriate, selecting another site. However, the USG reserves the right to withdraw assistance for the project at its sole discretion if a consensus on a practical and cost effective site is not achieved within 60 days following delivery of the site analysis and recommendation to the Governments of Afghanistan and Tajikistan.

Article 5

Real property ownership and access

a. The portions of the bridge and associated infrastructure located within the territory of the Tajikistan shall be the property of the GOT.

b. Prior to the commencement of construction, the GOT shall acquire and make available at no cost to the USG, all rights of entry to, use of, and control over, all real property necessary for the construction site, as well as construction staging, office, and housing areas required for the project. The USG will ensure that the areas agreed upon are used only for work authorized under terms of this Agreement. The USG shall be permitted to erect such barriers as are deemed necessary to control access to the properties made available to it.

c. All real property referred to in subparagraph (b) shall be cleared by the GOT of all occupants or users of such property, and of all structures and other facilities that the GOT determines should be relocated rather than demolished. Demolition of any facilities and structures located on real property referred to in subparagraph (b) shall be accomplished by the USG.

d. The USG shall have the right to lease additional property in Tajikistan as necessary to implement this agreement.

Article 6

Management and coordination

a. The USG will designate a project manager (PM) with overall responsibility for exercising its management and operational control over the development and delivery of all projects, products, services, and activities under this Agreement.

b. The GOT will designate a project Liaison Officer (LO) who will serve as the principal point of contact for authoritative communications, direct coordination, and liaison between its authorities and the PM. The LO shall be the primary point of contact with the PM in carrying out GOT responsibilities and commitments under the terms of this Agreement. Responsibilities of the LO will include, but not be limited to: providing information on appropriate codes, standards, specifications, or other project requirements that the GOT would like to have considered for the project; serving as the control point for coordination with appropriate GOT officials; coordinating and facilitating expeditious receipt of required clearances for USG and contractor shipment of materiel, equipment, and supplies into Tajikistan; obtaining any and all required GOT approvals, coordinating any GOT commitments to provide labor, materials, equipment, or financial assistance under the terms of this Agreement, and monitoring progress of the project. The LO shall also facilitate expeditious provision of all required customs clearances, work, entry, or exit visas; and work, vehicle operator, residence, or in-country travel permits. The salary, travel, and per diem costs of the LO and his or her staff shall be the responsibility of the GOT.

c. The USG shall provide all project and program information requested by the LO and other authorized GOT representatives, except for information whose release is restricted by this Agreement or United States law or regulation.

Article 7
Design and construction services

- a. The USG shall determine the appropriate codes, standards, and specifications that will apply to the project being implemented under the terms of this Agreement. In making its determination, the USG shall consider the functional requirements of the bridge and related infrastructure, seismic considerations, site conditions, geotechnical requirements, and other factors including applicable codes and standards of Afghanistan and Tajikistan, and other codes and standards in local use. The GOT will provide, at no cost to the USG, English translations of all applicable Tajikistan codes, standards, and specifications that the GOT wishes the USG to consider.
- b. The USG may establish suitable offices in Tajikistan for the purpose of supervising and inspecting construction and related work accomplished under this Agreement. The USG may establish such offices by leasing existing facilities or constructing temporary facilities on real property provided by the GOT for implementation of the project.
- c. Prior to the arrival of USG, contractor or subcontractor personnel, the GOT will arrange for appropriate clearances for visits by such personnel to all agencies, offices, activities, installations, and sites required.

Article 8
Construction conditions

- a. The GOT shall ensure continuous, unrestricted access to, and movement within, the project site by the personnel, vehicles and equipment of the USG and its contractors and subcontractors for the duration of the project. The GOT shall also allow unimpeded access between the project sites in Tajikistan and Afghanistan, as well as to and from the project site, as the USG deems necessary.
- b. The GOT shall provide, at no cost, utility service (electricity, water, sewer) to the project site, including the construction site, staging areas, and office and housing areas, as required for construction of the facilities. The GOT shall provide all necessary utility permits and licenses, and utility easements and rights of way for bringing utility services to the project site. To the extent that the GOT is unable to provide utilities to the site, the USG may provide temporary utilities as required for the construction of the facilities, and the GOT

shall take all necessary steps to facilitate such services, including the prompt issuance of all necessary permits, licenses, easements and rights of way. The GOT shall be responsible for providing utilities necessary for the long-term operation of the facilities.

c. To the extent that USG activities pursuant to this Agreement cause excessive or unforeseen damage or accelerated deterioration of existing roads, the USG will be responsible to restore such roads to their pre-construction condition.

d. Contractors and subcontractors shall be responsible for timely and complete submittal of the necessary information and forms directly to the appropriate GOT agency for the required customs clearances, passports, visas, licenses, or permits. The contractor or subcontractor shall be responsible for the sponsorship of its employees and their dependents and shall process said permits directly with the appropriate GOT agency.

e. The GOT shall exert its best efforts to ensure the availability of adequate port and freight handling facilities for the processing, forwarding, and storage of materials, equipment, and supplies for the projects funded under this Agreement. The USG and the GOT shall exert their best efforts to prevent interruptions by strikes, labor unrest, or other causes.

f. The USG and its contractors and subcontractors shall be permitted to operate a radio communication system within Tajikistan for communicating between offices and the job site.

g. The GOT shall take possession and control of the portions of the bridge within its territory, and all associated infrastructure, together with related staging, office and housing areas, upon final completion of the project. Transfer of possession and control shall occur following the signature by both parties of a transfer document, in a form acceptable to the USG. As the USG deems appropriate, the USG may transfer possession and control of portions of the project site prior to final completion of the project, subject to the procedures above.

h. The USG shall provide to the GOT two full sets of all as-built drawings, operations and maintenance manuals, and other technical documentation considered necessary for the operation and maintenance of the completed facilities.

i. Equipment, supplies and other property imported into Tajikistan by the USG or its contractors and subcontractors in connection with the project, and which are not re-exported after completion of the project, may be disposed of by the USG or its contractors and subcontractors either by sale or donation, free of all taxes, duties, fees or other charges. All waste materials, including but not limited to equipment, supplies, and other property not disposed of by sale or donation in accordance with this paragraph, shall be disposed of by the GOT.

j. The GOT shall be responsible for all costs of supplies and services provided by it in support of USG undertakings under this Agreement, and for all costs incurred by the GOT in fulfilling its undertakings under this Agreement.

Article 9

Contracting and contract disputes

a. The USG shall solicit, award, and administer all contracts associated with this agreement in accordance with U.S. procurement law and regulations.

b. All claims and disputes arising under or relating to contracts awarded by the USG shall be resolved in accordance with United States federal law and the terms of the individual contract.

Article 10

Exemption from taxation

a. Goods, services, commodities, equipment, supplies or other property provided or utilized in connection with assistance under this Agreement may be imported into, exported from, or procured or utilized in Tajikistan free from all tariffs, dues, customs duties, import taxes, value added taxes and other taxes or charges imposed by Tajikistan or any subdivision thereof.

b. The USG and its personnel, and its contractors and subcontractors and their personnel who are not nationals of, or ordinarily resident in, Tajikistan shall be exempt from all corporate or personal income, social security, employment or other taxes imposed by Tajikistan or any subdivision thereof regarding income received in connection with the provision of assistance under this Agreement. They shall also be exempt from the payment of any tariffs, dues, customs duties, import taxes, value added taxes and other taxes or charges upon personal or household goods imported into, exported from, or used in

Tajikistan for the personal use of such personnel or members of their families. The appropriate agency, ministry or department of the GOT shall issue the USG and its contractors and subcontractors an official document or certificate expressly exempting the USG and its contractors and subcontractors from taxes, tariffs, dues, and duties consistent with this Agreement. The GOT shall ensure that the document or certificate be accepted by all persons and companies within Tajikistan.

c. The access and movement of aircraft and vessels operated by or for the USG in connection with assistance provided under this Agreement shall be free of landing fees, navigation charges, port charges, tolls and similar charges by Tajikistan or any subdivision thereof.

d. Funds brought into Tajikistan in connection with assistance under this Agreement shall be convertible into the currency of Tajikistan at the rate providing the largest number of units of such currency per United States dollar which, at the time the conversion is made, is lawful for any commercial or other transaction in Tajikistan.

Article 11

Customs clearances, licenses, and permits

The GOT shall facilitate expeditious issuance of customs clearances; work, entry, or exit visas; work, vehicle operator, residence, or in-country travel permits; and any other appropriate licenses or permits required of the USG, its personnel, and its contractors and subcontractors and their personnel. In order to minimize potential delays, the GOT shall take all necessary actions to expedite the required materiel and personnel clearances associated with implementation of the project authorized under this Agreement.

Article 12

Privileges and immunities

Personnel of the USG present in Tajikistan in connection with assistance provided under this Agreement shall be accorded no lesser status than that granted to USG personnel under the exchange of notes between the Embassy of the United States of America in Dushanbe and the Ministry of Foreign Affairs of the Republic of Tajikistan, dated 20 November 2001 and 23 November 2001. Nothing in this Agreement shall be construed to derogate from the privileges and immunities granted to any personnel under any other agreements.

Article 13

Personnel and security

a. The USG and its contractors and subcontractors shall be entitled to employ nationals of the United States of America, Afghanistan, Tajikistan, and other countries to carry out the work implementing this Agreement. Notwithstanding any contrary provision in the law of Tajikistan, the GOT will receive, without regard to race, religion, sex, ethnic, or national origin, all personnel so employed, and shall facilitate their expeditious entry into Tajikistan.

b. Personnel of the USG and its contractors and subcontractors shall be permitted to travel unrestricted and unimpeded within the territory of Tajikistan, and between the territories of Tajikistan and Afghanistan, as required for the purposes of carrying out the services under the terms of this Agreement. The GOT shall ensure that any foreign forces providing security or border control functions on its territory will allow unrestricted and unimpeded travel by such personnel.

c. The GOT shall provide for the physical security of the construction sites and support facilities, and for USG and USG contractor and subcontractor personnel and their dependents. In addition, the USG and its contractors and subcontractors shall have the right to provide for the physical security of the construction sites and support facilities, and for USG and USG contractor and subcontractor personnel and their dependents. Personnel performing security functions shall be permitted to bear arms and employ vehicles and equipment as determined necessary by the USG and its contractors and subcontractors. In the event of hostilities, civil disturbance, or natural disaster, the GOT shall use all reasonable means, including evacuation, if necessary, to ensure the safety of USG and USG contractor and subcontractor personnel and their dependents, together with the safety of their personal property. Whether to retain, replace, or terminate services of such personnel under the foregoing circumstances shall be within the sole discretion of the USG. The GOT will provide for the protection and safety of USG and USG contractor and subcontractor personnel who are ordinarily resident in Tajikistan in accordance with the law, regulations, and practice of Tajikistan.

d. Other than final design analysis documents, as-built drawings, operations and maintenance manuals, and other documentation as may be specified in this Agreement for transmittal to the GOT, the USG shall retain unlimited rights in

technical data resulting from performance of this Agreement. United States personnel, contractors, or subcontractors shall not be required or expected to deliver to the GOT, or to any other person or entity, any technical data produced or utilized under this Agreement unless authorized in writing to do so by the United States State Department.

Article 14

Environmental policy and protections

Activities undertaken by the USG under the terms of this Agreement shall not be considered major United States federal actions for purposes of the National Environmental Policy Act (NEPA). The GOT shall be responsible for compliance with all procedural requirements of the environmental, archeological, or other cultural law and regulations of Tajikistan, without cost to the USG. Work performed by the USG under the terms of this agreement shall comply with all applicable environmental laws and regulations of Tajikistan, and the GOT shall be responsible for identifying to the USG, in writing, all environmental laws and regulations that apply to the program. Any cultural resources studies, excavations, or other preservation activities shall be the responsibility of the GOT and shall be conducted at no cost to the USG.

Article 15

Explosive ordnance survey and removal

Before work commences at any construction site, the USG shall clear the site of unexploded ordnance, munitions, or similar materials. The USG shall determine what unexploded ordnance, munitions, or similar materials must be removed to complete the project. If any unexploded ordnance, munitions or similar material is subsequently discovered, the USG shall remove such material.

Article 16

Non-contractual claims, disputes, and liabilities

The GOT shall, in respect of legal proceedings and claims, harmless and indemnify the USG and its personnel, contractors, subcontractors and their personnel, against all property damage, or death or injury to any persons arising out of activities related to this project. The provisions of this Article shall not prevent the Parties from providing compensation in accordance with their national laws. The terms of this Article shall prevail over the claims provision

in the exchange of notes between the Embassy of the United States of America in Dushanbe and the Ministry of Foreign Affairs of the Republic of Tajikistan, dated 20 November 2001 and 23 November 2001.

Article 17
Operation and maintenance of completed facility

The Government of Tajikistan, in cooperation with the Government of Afghanistan, shall be responsible for the security, operation and maintenance of the facilities completed under the terms of this agreement. The USG shall not be responsible for costs associated with the security, operation and maintenance of the completed facilities.

Article 18
Official language

All documents, publications, technical data, and operations and maintenance manuals provided under project funds under the terms of this Agreement shall be in the English language only. The responsibility and costs for the translation of any document from English shall rest solely with the GOT. If such information is translated, the English text shall control.

Article 19
Entry into force, suspension and termination

- a. This agreement shall enter into force upon signature by both Parties.
- b. The USG may wholly or partially suspend the performance of its undertakings under this Agreement immediately upon its determination that the conditions necessary for the successful completion of the project are not met. Any such suspension shall be notified in writing to the GOT. If, after sixty (60) days from the date of such notice, the USG determines that the cause of such suspension has not been corrected, the USG may terminate the project and provide written notice thereof to the GOT.

Done at Dushanbe this 31 day of December, 2003, in duplicate in the English, Tajik and Russian languages, both texts being equally authentic.

**For the Government of
the United States of America**



**For the Government of
the Republic of Tajikistan**

